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FEDERAL TRADE COMMISSION,)	CIVIL ACTION NO.
)	
Plaintiff,)	
)	
)	TEMPORARY RESTRAINING
v.)	ORDER FREEZING ASSETS,
)	APPOINTING A RECEIVER,
)	EXPEDITING DISCOVERY, AND
DAVISON & ASSOCIATES, INC., a corporation,)	ORDERING DEFENDANTS TO
GEORGE M. DAVISON, III, individually)	APPEAR AND SHOW CAUSE
THOMAS DOWLER, individually,)	WHY A PRELIMINARY
)	INJUNCTION SHOULD NOT ISSUE
)	
Defendants.)	
)	
)	
)	

2. Good cause exists to believe that the Commission ultimately will succeed in establishing that the above named defendants have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), and that

the Commission is likely to prevail on the merits.

3. Good cause exists to believe that immediate and irreparable damage will occur to the Court's ability to grant effective final relief for consumers in the form of monetary restitution from defendants' destruction, transfer, concealment or other disposition of their assets or records unless the defendants are immediately restrained and enjoined. Good cause thus exists to relieve the Commission of the duty to provide defendants with prior notice of the Commission's motion. Good cause also exists to expedite discovery pursuant to Rule 26(d) of the Federal Rules of Civil Procedure.

4. Weighing the equities and considering the Commission's likelihood of ultimate success, a Temporary Restraining Order with asset freeze and other equitable relief is in the public interest.

5. No security is required of any agency of the United States for issuance of a restraining order. Fed. R. Civ. P. 65(c).

I. CEASE MISREPRESENTATIONS AND VIOLATIONS

IT IS THEREFORE ORDERED that defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, in connection with the advertising, marketing, proposed sale, or sale of any service, or the entering into any contract or any other arrangement relating to the advertising, marketing, proposed sale or sale of any service, are

hereby enjoined from making any express or implied representation of material fact that is false or misleading, including but not limited to misrepresenting in any manner that:

- A. consumers who buy defendants' invention-promotion services stand a reasonably good chance of realizing financial gain;
- B. defendants have successfully marketed the invention ideas of many of their customers;
- C. defendants successfully marketed specific invention ideas, such as some or all of the following: Bark Buddies, the Spot-lite, the Snag-Buster, the Puzzle Sorter, and the EnviroGolf;
- D. defendants have a vast network of corporations with whom they have ongoing relationships and regularly negotiate successful licensing agreements;
- E. defendants' invention marketing services are necessary for consumers to license their invention ideas; and
- F. defendants prepare objective and expert analyses of the patentability and marketability of consumers' invention ideas.

II. ASSET FREEZE

IT IS FURTHER ORDERED that defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns, all other persons or entities directly or indirectly under their control or under common control with them, and all other persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, with the exception of any receiver appointed herein, whether acting directly or through any trust, corporation, subsidiary, division, or

other device, are hereby restrained and enjoined from:

- A. transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing or otherwise disposing of any funds, property, artwork, coins, precious metals, jewelry, contracts, shares of stock, or other assets, wherever located, that are owned, controlled, or in the actual or constructive possession of or by any defendant in whole or in part, or by any other corporation, partnership, or entity directly or indirectly owned, managed, or controlled by, or under common control with any defendant, including but not limited to any assets held by or for any defendant in any account at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution of any kind;
- B. opening or causing to be opened any safe deposit boxes or storage facilities titled in the name of any defendant, or subject to access or control by any of them, without providing plaintiff prior notice and opportunity to inspect the contents in order to determine that they contain no assets covered by this section.
- C. The assets so affected shall include both existing assets and assets acquired after the date of this Order. Defendants shall hold and account for all such assets and payments received by any of them, including without limitation, borrowed funds or property and gifts.

III. DEFENDANTS TO REPATRIATE ALL ASSETS

IT IS FURTHER ORDERED that within five (5) business days following service of this Order, defendants shall:

- A. repatriate to the United States all funds, documents and assets in foreign countries

held either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control, jointly or singly;

B. provide the Commission with a full accounting of all funds, documents and assets outside the territory of the United States held either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control, jointly or singly;

C. prevent any transfer, disposition, or dissipation whatsoever of any such documents, assets or funds; and

D. provide the Commission access to defendants' records and documents held by financial institutions outside the territorial United States.

IV. FILE FINANCIAL STATEMENTS

IT IS FURTHER ORDERED that each defendant shall provide this Court and serve upon counsel for the Commission at least seventy-two (72) hours prior to the hearing on a preliminary injunction in this matter, but in no event later than one week after entry of this Order, a completed financial statement on the forms attached to this Order, accurate as of the date of service of this Order upon such defendant. Said financial statement shall include assets held outside the territory of the United States. Notwithstanding the asset freeze provisions of Paragraph II of this Order, defendants may, upon compliance with this Paragraph, pay reasonable, usual, ordinary and necessary living expenses, subject to written agreement with plaintiff.

V. DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS

IT IS FURTHER ORDERED that any financial or brokerage institution, escrow agent,

title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other asset of Davison & Associates, Inc., George M. Davison, III, Thomas Dowler, or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any of them, or that at any time since January 1, 1995, has maintained or had custody of any such account or other asset, and which receives actual notice of this Order by personal service or otherwise, shall:

A. hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any of the assets, funds, or other property held by, or under its control, on behalf of any defendant(s) in any account maintained in the name of or for the benefit of any defendant(s), in whole or in part, except in accordance with any further order of the Court;

and

B. deny access to any safe deposit boxes or storage facilities that are either:

1. titled in the name, individually or jointly, of any defendant, or
2. otherwise subject to access by any defendant;

C. within five (5) business days of the date of service of this Order, provide to counsel for the plaintiff and the account holder a certified statement setting forth:

1. the identification of each account or asset titled in the name, individually or jointly, of any defendant, or held on behalf of, or for the benefit of, any defendant;
2. the balance of each such account, or a description and appraisal of the value of such asset, as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total

funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. the identification of any safe deposit box or storage facility that is either titled in the name individually or jointly, of any defendant, or is otherwise subject to access or control by any defendant;

D. allow representatives of the Commission immediate access to inspect and copy any records or other documentation pertaining to such account or asset, including, but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. Any such financial institution, account custodian, or other aforementioned entity may arrange for the Commission to obtain copies of any such records which the Commission seeks, provided that such institution or custodian may charge a reasonable fee not to exceed fourteen (14) cents per page copied.

The assets and funds affected by this Paragraph include both existing assets and assets acquired after the effective date of this Order.

VI. MAINTAIN RECORDS

IT IS FURTHER ORDERED that defendants and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns, all other persons or entities directly or indirectly under their control or under common control with any of them, and all other persons in active concert or participation with them

who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby enjoined from:

- A. failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipt ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of defendants; and
- B. destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any books, records, tapes, discs, accounting data, checks (fronts and backs), correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form in their possession, and other documents or records of any kind that relate to the business practices or finances of any defendant.

VII. RECEIVER

IT IS FURTHER ORDERED that _____ is appointed Receiver for Defendant Davison & Associates, Inc. (the "Receivership Defendant"), its affiliates, subsidiaries, divisions, sales entities, successors, or assigns, with the full power of an equity receiver. The Receiver shall be the agent solely of this Court in acting under this Order and shall be accountable directly to this Court.

- A. The Receiver is directed and authorized to:

1. assume full control of the Receivership Defendant by removing any director, officer, independent contractor, employee, or agent of the Receivership Defendant, including any defendant, from control, management or participation in the affairs of the Receivership Defendant;

2. allow the Commission access to documents in the possession, custody, or control of the Receivership Defendant, or on its behalf, including but not limited to books, records, tapes, discs, accounting data, checks, correspondence, forms, advertisements, brochures, manuals, banking records, customer lists, customer files, invoices, telephone records, ledgers and payroll records, and any other document or record that relates to the business practices or finances of the Receivership Defendant, including information stored in computer maintained form;

3. take exclusive custody, control and possession of all assets and documents of, or in the possession, custody, or under the control of, the Receivership Defendant, wherever situated. The Receiver shall have full power to divert mail and to sue for, collect, receive, take in possession, hold, and manage all assets and documents of the Receivership Defendant and other persons or entities whose interests are now held by or under the direction, possession, custody, or control of the Receivership Defendant;

PROVIDED, HOWEVER, that the Receiver shall not attempt to collect any amount from a consumer if she believes the consumer was a victim of the deceptive acts or practices alleged in the Complaint in this matter;

4. take all steps necessary to secure the business premises including (1) serving and filing this Order, (2) completing a written inventory of all receivership assets, (3)

obtaining pertinent information from all employees and other agents of the Receivership Defendant, including but not limited to the name, home address, Social Security number, job description, method of compensation, and all accrued and unpaid commissions and compensation of each such employee or agent, (4) changing the locks and disconnecting any computer modems or other means of access to the computer or other records maintained at that location, or (5) requiring any persons present on the premises at the time this Order is served to leave the premises, to provide the Receiver with proof of identification, or to demonstrate to her satisfaction that such persons are not removing from the premises documents or assets of the Receivership Defendant;

PROVIDED HOWEVER, that the Receiver shall take no steps under this part that are inconsistent with any existing residential use of such business premises;

5. conserve, hold, and manage all receivership assets and preserve the value of those assets in order to prevent any irreparable loss, damage, or injury to consumers or creditors, including obtaining an accounting of the assets and liquidating securities or commodities owned by or for the benefit of the Receivership Defendants;

6 enter into contracts and purchase insurance;

7. prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors;

8. manage the business of the Receivership Defendant until further order of this Court by performing all incidental acts, including hiring or dismissing any employees, independent contractors, or agents, and conduct the business of the Receivership Defendant if she determines the business can be lawfully operated at a profit using the receivership assets;

9. engage attorneys, accountants, appraisers, and other independent contractors and technical specialists;

10. make payments and disbursements from the receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The Receiver shall not pay any debt or obligation incurred prior to entry of this Order, except for payments made to secure assets of the Receivership Defendant such as rent;

11. institute, compromise, adjust, appear in, intervene in, or become party to actions or proceedings in state, federal, or foreign courts to preserve or recover assets or to carry out the Receiver's mandate under this Order;

12. issue subpoenas to obtain records pertaining to the receivership and conduct discovery in this action on behalf of the receivership estate;

13. open one or more bank accounts as designated depositories for funds of the Receivership Defendant. The Receiver shall deposit all funds of the Receivership Defendant in such a designated account, make all payments and disbursements from such account(s), and maintain accurate records of all receipts and expenditures.

B. Defendants shall fully cooperate with and assist the Receiver, and are hereby enjoined from doing any act or thing whatsoever to harass or interfere with the Receiver's custody, control, possession, or management of the assets or documents subject to this receivership, or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership Defendant.

C. Immediately upon service of this Order, defendants shall transfer or deliver

possession, custody, and control of the following to the Receiver:

1. all assets of the Receivership Defendant;
2. all documents of the Receivership Defendant, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, customer files, title documents and other papers, and any computers or computer disks wherein such documents are stored;
3. all assets belonging to members of the public now held by the Receivership Defendant; and
4. all keys and codes necessary to gain or to secure access to any assets or documents of the Receivership Defendants, including, but not limited to, access to their business premises, means of communication, accounts, computer systems including passwords, or other property.

In the event any person or entity fails to deliver or transfer any asset or otherwise fails to comply with any provision of this Paragraph, the Receiver is instructed to file *ex parte* an affidavit regarding the failure. Upon filing of the affidavit, the Court may authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or any sheriff or deputy sheriff of any county (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset, document, or other thing and deliver it to the Receiver.

D. Upon service of a copy of this Order, all banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, futures commission merchants, or

other financial institutions shall cooperate with all reasonable requests of the Receiver relating to implementation of this Order, including transferring funds at her direction and producing records related to the assets of the Receivership Defendant.

E. Stay of Actions. Except by leave of this Court, during pendency of the receivership ordered herein, defendants and all other persons and entities are stayed from taking any action to establish or enforce any claim, right, or interest for, against, on behalf of, in, or in the name of, any of the Receivership Defendant, any of its subsidiaries, affiliates, partnerships, assets, documents, or the Receiver or her agents without prior permission of the Court, including but not limited to:

1. filing any petition for relief under the United States Bankruptcy Code;
2. commencing, prosecuting, continuing, entering, or enforcing any suit or proceeding, except that such actions may be filed to toll any applicable statute of limitations;
3. accelerating the due date of any obligation or claimed obligation; filing or enforcing any lien; taking or attempting to take possession, custody, or control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest in any asset, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;
4. executing, issuing, serving, or causing the institution of any legal process, including but not limited to attachments, garnishments, subpoenas, writs of replevin, writs of execution, or any other form of process whether or not specified in this Order; or
5. Doing any act or thing whatsoever to interfere with the Receiver taking custody, control, possession, or management of the assets or documents subject to this receivership, or to harass or interfere with the Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the assets or documents of the Receivership

Defendant.

PROVIDED HOWEVER That this paragraph does not stay:

1. The commencement or continuation of a criminal action or proceeding;
2. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
3. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
4. The commencement of any action by the Secretary of the United States Department of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or
5. The issuance to a Receivership Defendant of a notice of tax deficiency.

Except as otherwise provided in this Order, all persons and entities in need of documentation from the Receiver shall in all instances first attempt to secure such information by submitting a formal written request to the Receiver, and, if such request has not been responded to within thirty (30) days of receipt by the Receiver, any such person or entity may thereafter seek an Order of this Court with regard to the relief requested.

F. Compensation Of Receiver. The Receiver is entitled to reasonable compensation for the performance of duties pursuant to this Order, and for the cost of actual out-of-pocket expenses, from the assets now held by or in the possession or control of or which may be received by the

Receivership Defendant. The Receiver shall file and serve periodic requests for the payment of such reasonable compensation. The Receiver shall not increase her hourly rate without Court approval.

VIII. EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that the Commission is granted leave pursuant of Federal Rules of Civil Procedure 30(a), 34, and 45 to take depositions and to demand the production of documents of any party or nonparty regarding the subject matter of this case or the nature, location, status or extent of defendants' assets. Three (3) days notice shall be sufficient for depositions, five (5) days for production of documents.

IX. COPIES TO BE SERVED ON OFFICERS, EMPLOYEES, *ET AL.*

IT IS FURTHER ORDERED that defendants shall immediately provide a copy of this Order to each of their corporations and corporations' employees, subsidiaries, affiliates, directors, officers, employees, agents, and independent contractors. Within twenty-one (21) calendar days following service of this Order by the Commission, defendants shall file and serve an affidavit identifying the names, titles, addresses, and telephone numbers of the persons and entities defendants have served with a copy of this Order in compliance with this provision.

X. EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that this Order shall expire on _____, 1997, unless within such time it is extended for good cause shown or unless, as to any defendant, the defendant consents that it should be extended for a longer period of time.

XI. DATE OF NEXT COURT PROCEEDING

IT IS FURTHER ORDERED that each of the defendants shall appear before this Court on the _____ day of _____, 1997, at _____ .m. at the United States Courthouse, Courtroom _____, Pittsburgh, Pennsylvania, to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the complaint, against defendants enjoining them from further violations of the law, continuing the applicable terms of this Order and imposing any other appropriate relief.

XII. ANSWERING EVIDENCE, MEMORANDA, WITNESS LISTS

IT IS FURTHER ORDERED that defendants shall serve any answering affidavits, pleadings and memoranda on plaintiff's counsel no less than four (4) business days prior to the preliminary injunction hearing via actual delivery or facsimile to Steven W. Balster, Federal Trade Commission, 1111 Superior Avenue, Cleveland, Ohio 44114, facsimile (216) 263-3426.

If any party intends to present the testimony of any witness at the hearing on a preliminary injunction in this matter, that party shall, at least seventy-two (72) hours prior to the scheduled date and time of hearing, file with this Court and serve on counsel for the other party a statement of the name, address, and telephone number of any such witness, and a summary of the witness's expected testimony or the witness's affidavit revealing the substance of the expected testimony. After the timely service of such statement, the served party shall have forty-eight (48) hours to provide information to the Court and to the serving party for any witness whose testimony the served party intends to present.

XIII. SERVICE

IT IS FURTHER ORDERED that the Commission shall serve upon defendants copies of this Order and of the summons, complaint and other initial pleadings and papers filed in this matter. Pursuant to Fed. R. Civ. P. 4(c)(2), the documents may be served by employees of the Commission, employees of any other law enforcement agency, or by agents of any process servers retained by the Commission. Copies of this Order may be served by the Commission or the Receiver upon any person or entity that may be in possession of any assets, property, or property rights of defendants or that may be otherwise subject to any provision of this Order.

XIV. CONSUMER REPORTING AGENCIES

IT IS FURTHER ORDERED, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. § 1681(b), that any consumer reporting agency may furnish a consumer or credit report to the Commission concerning any defendant

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

Issued at _____, __.m., _____, 1997

United States District Judge